Supreme Court, U.S.
FILED

97 1078 DEC 23 1997

No. ____ OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1997

CATHERINE A. GHIGLIERI, TEXAS BANKING COMMISSIONER,
Petitioner

v.

EUGENE LUDWIG, COMPTROLLER OF THE CURRENCY;
SUN WORLD NATIONAL ASSOCIATION, EL PASO, TEXAS; AND
COMMERCIAL NATIONAL BANK OF TEXARKANA,
Respondents

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit
Case Nos. 96-50847 and 96-10818

PETITIONER'S APPENDIX VOLUME III

DAN MORALES
Attorney General of Texas

JORGE VEGA
First Assistant Attorney General

LAQUITA HAMILTON
Deputy Attorney General

DAVID MATTAX
Assistant Attorney General

D'ANN JOHNSON
Counsel of Record
Special Assistant Attorney General
2601 North Lamar Boulevard
Austin, Texas 78705-4294
(512) 475-1327

STEVEN A. FLECKMAN
JULIA B. KENNER
Fleckman & McGlynn
1800 NationsBank Tower
Congress Avenue
Austin, Texas 78701

115 pp

TABLE OF CONTENTS
APPENDIX

A. *Ghiglieri v. Sun World National Association*, Opinion of the United States Court of Appeals for the Fifth Circuit, Case Nos. 96-50847, 96-50948 (July 22, 1997).

B. *Ghiglieri v. Ludwig*, Opinion of the United States Court of Appeals for the Fifth Circuit, Case No. 96-10818 (October 29, 1997).

C. *Ghiglieri v. Sun World National Association*, Memorandum Opinion and Order, United States District Court for the Northern District of Texas (October 29, 1996).

D. *Ghiglieri v. Ludwig*, Findings of Fact and Conclusions of Law of the United States District Court for the Western District of Texas (May 22, 1996).

E. Decision of the Office of the Comptroller of the Currency on the Applications of Sun World, National Association, El Paso, Texas (August 2, 1996).

F. Decision of the Office of the Comptroller of the Currency on the Applications of Commercial National Bank of Texarkana, Texarkana, Arkansas (March 8, 1995).

G. Denial of Petition for Rehearing and Suggestion for Rehearing En Banc, United States Court of Appeals for the Fifth Circuit (September 25, 1997).

H. 12 U.S.C. § 36.

I. ARK. CODE ANN. § 23-32-1202 (Michie 1994).

J. N.M. STAT. ANN. § § 58-1C-4, 58-1C-5, 58-1C-6, 58-1C-7, 58-1C-8 (1996).

K. Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, [H.R. 3841] (later, Pub. L. No. 103-328, 108 Stat. 2338 (September 29, 1994)).

L. Joint Explanatory Statement of the Committee of Conference, H.R. CONF. REP. NO. 651, 103d Cong., 2d Sess. 47 *et seq.* (Aug. 2, 1994).

M. Prepared Statement of Chairman D'Amato before Financial Institutions Subcommittee (May 1, 1997).

N. Affidavit of James J. Saxon.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 96-50847

CATHERINE A GHIGLIERI, in her official capacity as Texas Banking Commissioner

Plaintiff - Appellee

v.

SUN WORLD NATIONAL ASSOCIATION, EL PASO, TEXAS, ET AL

Defendants

SUN WORLD NATIONAL ASSOCIATION, EL PASO, TEXAS; EUGENE A LUDWIG, in his official capacity as the United States Comptroller of the Currency

Defendants - Appellants

NO. 96-50948

CATHERINE A GHIGLIERI, in her official capacity as Texas Banking Commissioner

Plaintiff - Appellee

v.

SUN WORLD NATIONAL ASSOCIATION, EL PASO, TEXAS, ET AL

Defendants

SUN WORLD NATIONAL ASSOCIATION, EL PASO, TEXAS

Defendants - Appellants

Appeals from the United States District Court for the Western District of Texas, El Paso

---

ON PETITION FOR REHEARING AND
SUGGESTION OR REHEARING EN BANC

(Opinion July 22, 1997, 5 Cir., F.3d)

Before JOLLY, DUHE' and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:

(X) The Petition for Rehearing is DENIED and no member of this panel nor judge in regular active service on the court having requested that the court be polled on Rehearing En Banc, (FRAP and Local Rule 35) the Suggestion for Rehearing En Banc is also DENIED.

( ) The Petition for Rehearing is DENIED and the court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service not having voted in favor, (FRAP and Local Rule 35) the Suggestion for Rehearing En Banc is also DENIED.

( ) A member of the court in active service having requested a poll on the reconsideration of this cause en banc, and a majority of the judges in active service not having voted in favor, Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

_____
United States Circuit Judge

Filed September 25, 1997
REHG-4

Section 36 of Title 12, United States Code, provides in pertinent part:

§ 36. Branch banks

The conditions upon which a national banking association may retain or establish and operate a branch or branches are the following:

(a) Lawful and continuous operation

A national banking association may retain and operate such branch or branches as it may have had in lawful operation on February 25, 1927, and any national banking association which continuously maintained and operated not more than one branch for a period of more than twenty-five years immediately preceding February 25, 1927, may continue to maintain and operate such branch.

(b) Converted State banks

(1) A national bank resulting from the conversion of a State bank may retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office --

(A) might be established under subsection (c) of this section as a new branch of the resulting national bank, and is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank;

(B) was a branch of any bank on February 25, 1927; or

(C) is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the national bank) resulting from the conversion of a national bank would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the national bank immediately prior to conversion.

(2) A national bank (referred to in this paragraph as the "resulting bank"), resulting from the consolidation of a national bank (referred to in this paragraph as the "national bank") under whose charter the consolidation is effected with another bank or banks, may retain and operate as a branch any office which, immediately prior to such consolidation, was in operation as --

(A) a main office or branch office of any bank (other than the national bank) participating in the consolidation if, under subsection (c) of this section, it might be established as a new branch of the resulting bank, and if the Comptroller of the Currency approves of its continued operation after the consolidation;

(B) a branch of any bank participating in the consolidation, and which, on February 25, 1927, was in operation as a branch of any bank; or

(C) a branch of the national bank and which, on February 25, 1927, was not in operation as a branch of any bank, if the Comptroller of the Currency approves of its continued operation after the consolidation.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the resulting national bank) resulting from the consolidation into a State bank of another bank or banks would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the State bank immediately prior to consolidation.

(3) As used in this subsection, the term "consolidation" includes a merger.

(c) New branches

A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches: (1) Within the limits of the city, town or village in which said association is situated, if such establishment and operation are at the time expressly authorized to State banks by the law of the State in question; and (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks. . . .

(d) Branches resulting from interstate merger transactions

A national bank resulting from an interstate merger transaction (as defined in section 1831u(f)(6) of this title) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B) of this section) of such bank in accordance with section 1831u of this title.

(e) Exclusive authority for additional branches

(1) [omitted]

(2) Retention of Branches

In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B) of this section) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if—

(A) the bank had no branches in such State; or

(B) the branch resulted from—

(i) an interstate merger transaction approved pursuant to section 1831u of this title; or

(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 1823(c) of this title.

ARK. CODE ANN. § 23-32-1202 (Michie 1994) (emphases added):

23-32-1202. Establishment of full service branch offices — Locations.

(a) No banking institution shall engage in the business of banking at any location other than at a principal banking office or branch bank *in this state* except as otherwise permitted by law.

(b) Any bank may establish a full service branch and may establish, maintain, and use a customer-bank communication terminal, as that term is defined in § 23-32-1301, provided that its supervisory banking authority approves its application for the full service branch. Full service branches and customer-bank communication terminals may only be established as follows:

(1) A bank may establish full service branches and customer-bank communication terminals anywhere within the county in which the establishing bank's principal banking office is located;

(2) A bank which relocates its principal banking office may continue to use its former principal banking office location as a full service branch and customer-bank communication terminal so long as the use as a banking facility is uninterrupted;

(3) In addition to subdivisions (b)(1) and (b)(2) of this section, after December 31, 1993, a bank may relocate one (1) or more full service branches and customer-bank communication terminals anywhere within any counties contiguous to the county in which its principal banking office is located;

(4) After December 31, 1998, a bank may locate one (1) or more full service branches and customer-bank communication terminals *anywhere in this state*.

FINANCIAL INSTITUTIONS AND REGULATIONS
ARTICLE 1C
Interstate Bank Branching

58-1C-4. Authority of state banks to establish interstate branches by merger.

A. If it obtains the prior approval of the director, a New Mexico state bank may establish, maintain and operate one or more branches in a state other than New Mexico pursuant to an interstate merger transaction in which the New Mexico state bank is the resulting bank.

B. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant New Mexico state bank shall file the documents and information required by Subsections A and B of Section 58-4-4 NMSA 1978 and pay a fee in an amount that shall be prescribed by the director by rule.

C. The director shall approve the interstate merger transaction and the operation of branches outside of New Mexico by the New Mexico state bank if he finds that:

(1) the proposed transaction will not be detrimental to the safety and soundness of the applicant or the resulting bank;

(2) any new officers and directors of the resulting bank are qualified by character, experience and financial responsibility to direct and manage the resulting bank; and

(3) the proposed merger is consistent with the convenience and needs of the communities to be served by the resulting bank in this state and is otherwise in the public interest.

D. The interstate merger transaction may be effected only after the applicant has received the director's written approval.

58-1C-5. Interstate merger transactions and branching permitted.

A. One or more New Mexico banks may enter into an interstate merger transaction with one or more out-of-state banks pursuant to the Interstate Bank Branching Act [58-1C-1 to 58-1C-13 NMSA 1978], and an out-of-state bank resulting from the transaction may maintain and operate as branches in New Mexico the former New Mexico banks that participated in the transaction if the conditions and filing requirements of that act are met.

B. Except as otherwise expressly provided in this subsection, an interstate merger transaction is not permitted pursuant to the Interstate Bank Branching Act if, upon effecting the transaction, the resulting bank, including all insured depository institutions that would be affiliates, as defined in 12 U.S.C.A. Section 1841(k), of the resulting bank, would result in an undue concentration of deposits totaling forty percent or more of the total deposits in all depository institutions in New Mexico. The director may by regulation adopt a procedure to waive the foregoing prohibition to prevent the insolvency or closing of a New Mexico state bank.

C. An interstate merger transaction resulting in the acquisition by an out-of-state bank of a new Mexico bank is not permitted pursuant to the Interstate Bank Branching Act, unless the New Mexico bank on the date of the acquisition has been in continuous operation under an active charter for a period of at least five years.

5-1C-6. De novo branching and acquisition of individual branches not permitted.

Interstate branching, either de novo or by acquisition of one or more branches, not involving all or substantially all of the assets and branches of a new Mexico bank is prohibited.

58-1C-8. Condition for interstate merger prior to June 1, 1997.

An interstate merger transaction prior to June 1, 1997 resulting in a New Mexico branch of an out-of-state bank shall not be consummated and any out-of-state bank resulting from such a merger shall not operate a branch in New Mexico, unless the director first:

A. finds that the laws of the home state of each out-of-state bank involved in the interstate merger transaction permit New Mexico state banks, under substantially the same terms and conditions as are set forth in the Interstate Bank Branching Act [58-1C-1 to 58-1C-13 NMSA 1978], to acquire banks and establish and maintain branches in that state by means of interstate merger transactions;

B. concludes that the resulting out-of-state bank has complied with all applicable requirements of New Mexico law and has agreed in writing to comply with the laws of this state applicable to its operation of branches in New Mexico; and

C. certifies to the federal bank supervisory agency having authority to approve the interstate merger transaction that the conditions and requirements of the Interstate Bank Branching Act have been met.

H.R.3841

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994'.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

TITLE I--INTERSTATE BANKING AND BRANCHING

Sec. 101. Interstate banking.

Sec. 102. Interstate bank mergers.

Sec. 103. State 'opt-in'election to permit interstate branching through de novo branches.

Sec. 104. Branching by foreign banks.

Sec. 105. Coordination of examination authority.

Sec. 106. Branch closures.

Sec. 107. Equalizing competitive opportunities for United States and foreign banks.

Sec. 108. Federal Reserve Board study on bank fees.

Sec. 109. Prohibition against deposit production offices.

Sec. 110. Community Reinvestment Act evaluation of banks with interstate branches.

Sec. 111. Restatement of existing law.

Sec. 112. GAO report on data collection under interstate branching.

Sec. 113. Maximum interest rate on certain FMHA loans.

Sec. 114. Notice requirements for banking agency

decisions preempting State law.

Sec. 115. Moratorium on examination fees under the International Banking Act of 1978.

TITLE II--GENERAL PROVISIONS

Sec. 201. Amendments to Federal Deposit Insurance Act and Federal Home Loan Bank Act.

Sec. 202. Sense of the Senate concerning multilateral export controls.

Sec. 203. Amendments relating to silver medals for Persian Gulf veterans.

Sec. 204. Commemoration of 1995 Special Olympic World Games.

Sec. 205. National Community Service Commemorative Coins.

Sec. 206. Robert F. Kennedy Memorial Commemorative Coins.

Sec. 207. United States Military Academy Bicentennial Commemorative Coins.

Sec. 208. United States Botanic Garden Commemorative Coins.

Sec. 209. Mount Rushmore Commemorative Coins.

Sec. 210. Study and report on the United States financial

services system.

Sec. 211. Flexibility in choosing boards of directors.

TITLE I--INTERSTATE BANKING AND BRANCHING

SEC. 101. INTERSTATE BANKING.

(a) IN GENERAL- Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

'(d) INTERSTATE BANKING-

'(1) APPROVALS AUTHORIZED-

'(A) ACQUISITION OF BANKS- The Board may approve an application under this section by a bank holding company that is adequately capitalized and adequately managed to acquire control of, or acquire all or substantially all of the assets of, a bank located in a State other than the home State of such bank holding company, without regard to whether such transaction is prohibited under the law of any State.

'(B) PRESERVATION OF STATE AGE LAWS-

'(i) IN GENERAL- Notwithstanding subparagraph (A), the Board may not approve an application pursuant to such subparagraph that would have the effect of permitting an out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

'(ii) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS- Notwithstanding clause (i), the Board may approve, pursuant to subparagraph (A), the acquisition of a bank that has been in existence for at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

'(C) SHELL BANKS- For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired. '(D) EFFECT ON STATE CONTINGENCY LAWS- No provision of this subsection shall be construed as affecting the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if-- '(i) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or bank holding companies;

'(ii) that State law was in effect as of the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994;

'(iii) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

'(iv) the appropriate Federal banking agency for such bank

has not found that compliance with such State law would place the bank in an unsafe or unsound condition. '(2) CONCENTRATION LIMITS-

'(A) NATIONWIDE CONCENTRATION LIMITS- The Board may not approve an application pursuant to paragraph (1)(A) if the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the acquisition for which such application is filed would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

'(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES- The Board may not approve an application pursuant to paragraph (1)(A) if-- '(i) immediately before the consummation of the acquisition for which such application is filed, the applicant (including any insured depository institution affiliate of the applicant) controls any insured depository institution or any branch of an insured depository institution in the home State of any bank to be acquired or in any host State in which any such bank maintains a branch; and

'(ii) the applicant (including all insured depository institutions which are affiliates of the applicant), upon consummation of the acquisition, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State. '(C) EFFECTIVENESS OF STATE DEPOSIT CAPS- No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of

insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

'(D) EXCEPTIONS TO SUBPARAGRAPH (B)- The Board may approve an application pursuant to paragraph (1)(A) without regard to the applicability of subparagraph (B) with respect to any State if--

'(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or '(ii) the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

'(E) DEPOSIT DEFINED- For purposes of this paragraph, the term 'deposit'has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

'(3) COMMUNITY REINVESTMENT COMPLIANCE- In determining whether to approve an application under

paragraph (1)(A), the Board shall--

'(A) comply with the responsibilities of the Board regarding such application under section 804 of the Community Reinvestment Act of 1977; and

'(B) take into account the applicant's record of compliance with applicable State community reinvestment laws.

'(4) APPLICABILITY OF ANTITRUST LAWS- No provision of this subsection shall be construed as affecting--

'(A) the applicability of the antitrust laws; or

'(B) the applicability, if any, of any State law which is similar to the antitrust laws.

'(5) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT- The Board may approve an application pursuant to paragraph (1)(A) which involves--

'(A) an acquisition of 1 or more banks in default or in danger of default; or

'(B) an acquisition with respect to which assistance is provided under section 13(c) of the Federal Deposit Insurance Act;

without regard to subparagraph (B) or (D) of paragraph (1) or paragraph (2) or (3).'.

(b) STATE TAXATION AUTHORITY NOT AFFECTED- Section 7 of the Bank Holding Company Act of 1956 (12

U.S.C. 1846) is amended--

(1) by striking 'No provision'and inserting ' IN GENERAL- No provision'; and

(2) by adding at the end the following new subsection: '(b) STATE TAXATION AUTHORITY NOT AFFECTED- No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.'.

(c) DEFINITIONS- Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

'(n) INCORPORATED DEFINITIONS- For purposes of this Act, the terms 'insured depository institution', 'appropriate Federal banking agency', 'default', 'in danger of default', and 'State bank supervisor'have the same meanings as in section 3 of the Federal Deposit Insurance Act.

'(o) OTHER DEFINITIONS- For purposes of this Act, the following definitions shall apply:

'(1) ADEQUATELY CAPITALIZED- The term 'adequately capitalized'means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards. '(2) ANTITRUST LAWS- Except as

provided in section 11, the term 'antitrust laws'--

'(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

'(B) includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

'(3) BRANCH- The term 'branch'means a domestic branch (as defined in section 3 of the Federal Deposit Insurance Act). '(4) HOME STATE- The term 'home State'means--

'(A) with respect to a national bank, the State in which the main office of the bank is located;

'(B) with respect to a State bank, the State by which the bank is chartered; and

'(C) with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of-- '(i) July 1, 1966; or

'(ii) the date on which the company becomes a bank holding company under this Act.

'(5) HOST STATE- The term 'host State'means--

'(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

'(B) with respect to a bank holding company, a State,

other than the home State of the company, in which the company controls, or seeks to control, a bank subsidiary.
'(6) OUT-OF-STATE BANK- The term 'out-of-State bank'means, with respect to any State, a bank whose home State is another State.

'(7) OUT-OF-STATE BANK HOLDING COMPANY- The term 'out-of-State bank holding company'means, with respect to any State, a bank holding company whose home State is another State.'.

(d) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS- Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

'(r) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS FOR CERTAIN AFFILIATES-

'(1) IN GENERAL- Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution affiliate. '(2) BANK ACTING AS AGENT IS NOT A BRANCH- Notwithstanding any other provision of law, a bank acting as an agent in accordance with paragraph (1) for a depository institution affiliate shall not be considered to be a branch of the affiliate.

'(3) PROHIBITIONS ON ACTIVITIES- A depository institution may not--

'(A) conduct any activity as an agent under paragraph (1) or (6) which such institution is prohibited from conducting

as a principal under any applicable Federal or State law; or '(B) as a principal, have an agent conduct any activity under paragraph (1) or (6) which the institution is prohibited from conducting under any applicable Federal or State law.

'(4) EXISTING AUTHORITY NOT AFFECTED- No provision of this subsection shall be construed as affecting--

'(A) the authority of any depository institution to act as an agent on behalf of any other depository institution under any other provision of law; or

'(B) whether a depository institution which conducts any activity as an agent on behalf of any other depository institution under any other provision of law shall be considered to be a branch of such other institution.

'(5) AGENCY RELATIONSHIP REQUIRED TO BE CONSISTENT WITH SAFE AND SOUND BANKING PRACTICES- An agency relationship between depository institutions under paragraph (1) or (6) shall be on terms that are consistent with safe and sound banking practices and all applicable regulations of any appropriate Federal banking agency.

'(6) AFFILIATED INSURED SAVINGS ASSOCIATIONS- An insured savings association which was an affiliate of a bank on July 1, 1994, may conduct activities as an agent on behalf of such bank in the same manner as an insured bank affiliate of such bank may act as agent for such bank under this subsection to the extent such activities are conducted only in--

'(A) any State in which--

'(i) the bank is not prohibited from operating a branch under any provision of Federal or State law; and

'(ii) the savings association maintained an office or branch and conducted business as of July 1, 1994; or

'(B) any State in which--

'(i) the bank is not expressly prohibited from operating a branch under a State law described in section 44(a)(2); and

'(ii) the savings association maintained a main office and conducted business as of July 1, 1994.'. (e) EFFECTIVE DATE- The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 102. INTERSTATE BANK MERGERS.

(a) IN GENERAL- The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section: 'SEC. 44. INTERSTATE BANK MERGERS.

'(a) APPROVAL OF INTERSTATE MERGER TRANSACTIONS AUTHORIZED-

'(1) IN GENERAL- Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 18(c) between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

'(2) STATE ELECTION TO PROHIBIT INTERSTATE MERGER TRANSACTIONS-

'(A) IN GENERAL- Notwithstanding paragraph (1), a merger transaction may not be approved pursuant to paragraph (1) if the transaction involves a bank the home State of which has enacted a law after the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and before June 1, 1997, that--

'(i) applies equally to all out-of-State banks; and

'(ii) expressly prohibits merger transactions involving out-of-State banks.

'(B) NO EFFECT ON PRIOR APPROVALS OF MERGER TRANSACTIONS- A law enacted by a State pursuant to subparagraph (A) shall have no effect on merger transactions that were approved before the effective date of such law.

'(3) STATE ELECTION TO PERMIT EARLY INTERSTATE MERGER TRANSACTIONS-

'(A) IN GENERAL- A merger transaction may be approved pursuant to paragraph (1) before June 1, 1997, if the home State of each bank involved in the transaction has in effect, as of the date of the approval of such transaction, a law that--

'(i) applies equally to all out-of-State banks; and

'(ii) expressly permits interstate merger transactions with all

out-of-State banks.

'(B) CERTAIN CONDITIONS ALLOWED- A host State may impose conditions on a branch within such State of a bank resulting from an interstate merger transaction if--

'(i) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or any subsidiary of such bank or company (other than on the basis of a nationwide reciprocal treatment requirement);

'(ii) the imposition of the conditions is not preempted by Federal law; and

'(iii) the conditions do not apply or require performance after May 31, 1997.

'(4) INTERSTATE MERGER TRANSACTIONS INVOLVING ACQUISITIONS OF BRANCHES-

'(A) IN GENERAL- An interstate merger transaction may involve the acquisition of a branch of an insured bank without the acquisition of the bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank in such State without acquiring the bank.

'(B) TREATMENT OF BRANCH FOR PURPOSES OF THIS SECTION- In the case of an interstate merger transaction which involves the acquisition of a branch of an insured bank without the acquisition of the bank, the branch shall be treated, for purposes of this section, as an insured bank the home State of which is the State in which the

branch is located.

'(5) PRESERVATION OF STATE AGE LAWS-

'(A) IN GENERAL- The responsible agency may not approve an application pursuant to paragraph (1) that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

'(B) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS- Notwithstanding subparagraph (A), the responsible agency may approve a merger transaction pursuant to paragraph (1) involving the acquisition of a bank that has been in existence at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

'(6) SHELL BANKS- For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank or branch shall be deemed to have been in existence for the same period of time as the bank or branch to be acquired.

'(b) PROVISIONS RELATING TO APPLICATION AND APPROVAL PROCESS-

'(1) COMPLIANCE WITH STATE FILING REQUIREMENTS-

'(A) IN GENERAL- Any bank which files an application for an interstate merger transaction shall--

'(i) comply with the filing requirements of any host State of the bank which will result from such transaction to the extent that the requirement--

'(I) does not have the effect of discriminating against out-of-State banks or out-of-State bank holding companies or subsidiaries of such banks or bank holding companies; and

'(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation incorporated in another State that engages in business in the host State; and

'(ii) submit a copy of the application to the State bank supervisor of the host State.

'(B) PENALTY FOR FAILURE TO COMPLY- The responsible agency may not approve an application for an interstate merger transaction if the applicant materially fails to comply with subparagraph (A).

'(2) CONCENTRATION LIMITS-

'(A) NATIONWIDE CONCENTRATION LIMITS- The responsible agency may not approve an application for an interstate merger transaction if the resulting bank (including all insured depository institutions which are affiliates of the resulting bank), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

'(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES- The responsible agency may not approve an application for an interstate merger transaction if--

'(i) any bank involved in the transaction (including all insured depository institutions which are affiliates of any such bank) has a branch in any State in which any other bank involved in the transaction has a branch; and

'(ii) the resulting bank (including all insured depository institutions which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

'(C) EFFECTIVENESS OF STATE DEPOSIT CAPS- No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

'(D) EXCEPTIONS TO SUBPARAGRAPH (B)- The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) without regard to the applicability of subparagraph (B) with respect to any State if--

'(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

'(ii) the transaction is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

'(E) EXCEPTION FOR CERTAIN BANKS- This paragraph shall not apply with respect to any interstate merger transaction involving only affiliated banks.

'(3) COMMUNITY REINVESTMENT COMPLIANCE- In determining whether to approve an application for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction, the responsible agency shall--

'(A) comply with the responsibilities of the agency regarding such application under section 804 of the Community Reinvestment Act of 1977;

'(B) take into account the most recent written evaluation

under section 804 of the Community Reinvestment Act of 1977 of any bank which would be an affiliate of the resulting bank; and

'(C) take into account the record of compliance of any applicant bank with applicable State community reinvestment laws.

'(4) ADEQUACY OF CAPITAL AND MANAGEMENT SKILLS- The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) only if--

'(A) each bank involved in the transaction is adequately capitalized as of the date the application is filed; and

'(B) the responsible agency determines that the resulting bank will continue to be adequately capitalized and adequately managed upon the consummation of the transaction.

'(5) SURRENDER OF CHARTER AFTER MERGER TRANSACTION- The charters of all banks involved in an interstate merger transaction, other than the charter of the resulting bank, shall be surrendered, upon request, to the Federal banking agency or State bank supervisor which issued the charter.

'(c) APPLICABILITY OF CERTAIN LAWS TO INTERSTATE BANKING OPERATIONS-

'(1) STATE TAXATION AUTHORITY NOT AFFECTED-

'(A) IN GENERAL- No provision of this section shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

'(B) IMPOSITION OF SHARES TAX BY HOST STATES- In the case of a branch of an out-of-State bank which results from an interstate merger transaction, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by the host State, or any political subdivision of such host State that imposes such tax based upon a method adopted by the host State, which may include allocation and apportionment.

'(2) APPLICABILITY OF ANTITRUST LAWS- No provision of this section shall be construed as affecting--

'(A) the applicability of the antitrust laws; or

'(B) the applicability, if any, of any State law which is similar to the antitrust laws.

'(3) RESERVATION OF CERTAIN RIGHTS TO STATES- No provision of this section shall be construed as limiting in any way the right of a State to--

'(A) determine the authority of State banks chartered by that State to establish and maintain branches; or

'(B) supervise, regulate, and examine State banks chartered by that State.

'(4) STATE-IMPOSED NOTICE REQUIREMENTS- A host State may impose any notification or reporting requirement on a branch of an out-of-State bank if the requirement--

'(A) does not discriminate against out-of-State banks or bank holding companies; and

'(B) is not preempted by any Federal law regarding the same subject.

'(d) OPERATIONS OF THE RESULTING BANK-

'(1) CONTINUED OPERATIONS- A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

'(2) ADDITIONAL BRANCHES- Following the consummation of any interstate merger transaction, the resulting bank may establish, acquire, or operate additional branches at any location where any bank involved in the transaction could have established, acquired, or operated a branch under applicable Federal or State law if such bank had not been a party to the merger transaction.

'(3) CERTAIN CONDITIONS AND COMMITMENTS CONTINUED- If, as a condition for the acquisition of a bank by an out-of-State bank holding company before the

date of the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994--

'(A) the home State of the acquired bank imposed conditions on such acquisition by such out-of-State bank holding company; or

'(B) the bank holding company made commitments to such State in connection with the acquisition, the State may enforce such conditions and commitments with respect to such bank holding company or any affiliated successor company which controls a bank or branch in such State as a result of an interstate merger transaction to the same extent as the State could enforce such conditions or commitments against the bank holding company before the consummation of the merger transaction.

'(e) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT- If an application under subsection (a)(1) for approval of a merger transaction which involves 1 or more banks in default or in danger of default or with respect to which the Corporation provides assistance under section 13(c), the responsible agency may approve such application without regard to subsection (b), or paragraph (2), (4), or (5) of subsection (a).

'(f) DEFINITIONS- For purposes of this section, the following definitions shall apply:

'(1) ADEQUATELY CAPITALIZED- The term 'adequately capitalized'has the same meaning as in section 38.

'(2) ANTITRUST LAWS- The term 'antitrust laws'--

'(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

'(B) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

'(3) BRANCH- The term 'branch'means any domestic branch.

'(4) HOME STATE- The term 'home State'--

'(A) means--

'(i) with respect to a national bank, the State in which the main office of the bank is located; and

'(ii) with respect to a State bank, the State by which the bank is chartered; and

'(B) with respect to a bank holding company, has the same meaning as in section 2(o)(4) of the Bank Holding Company Act of 1956.

'(5) HOST STATE- The term 'host State'means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

'(6) INTERSTATE MERGER TRANSACTION- The term 'interstate merger transaction'means any merger transaction approved pursuant to subsection (a)(1).

'(7) MERGER TRANSACTION- The term 'merger

transaction'has the meaning determined under section 18(c)(3).

'(8) OUT-OF-STATE BANK- The term 'out-of-State bank'means, with respect to any State, a bank whose home State is another State.

'(9) OUT-OF-STATE BANK HOLDING COMPANY- The term 'out-of-State bank holding company'means, with respect to any State, a bank holding company whose home State is another State.

'(10) RESPONSIBLE AGENCY- The term 'responsible agency'means the agency determined in accordance with section 18(c)(2) with respect to a merger transaction.

'(11) RESULTING BANK- The term 'resulting bank'means a bank that has resulted from an interstate merger transaction under this section.'.

(b) TECHNICAL AND CONFORMING AMENDMENTS-

(1) REVISED STATUTES- Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended--

(A) by redesignating subsections (d) through (h) as subsections (h) through (l), respectively; and (B) by inserting after subsection (c) the following new subsections:

'(d) BRANCHES RESULTING FROM INTERSTATE MERGER TRANSACTIONS- A national bank resulting from an interstate merger transaction (as defined in section 44(f)(6) of the Federal Deposit Insurance Act) may

maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 44 of the Federal Deposit Insurance Act.

'(e) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES-

'(1) IN GENERAL- Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 13(f), 13(k), or 44 of the Federal Deposit Insurance Act.

'(2) RETENTION OF BRANCHES- In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if--

'(A) the bank had no branches in such State; or

'(B) the branch resulted from--

'(i) an interstate merger transaction approved pursuant to section 44 of the Federal Deposit Insurance Act; or

'(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 13(c) of such Act.

'(f) LAW APPLICABLE TO INTERSTATE BRANCHING OPERATIONS-

'(1) LAW APPLICABLE TO NATIONAL BANK BRANCHES-

'(A) IN GENERAL- The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except--

'(i) when Federal law preempts the application of such State laws to a national bank; or

'(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

'(B) ENFORCEMENT OF APPLICABLE STATE LAWS- The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

'(2) TREATMENT OF BRANCH AS BANK- All laws of a host State, other than the laws regarding community

reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

'(3) RULE OF CONSTRUCTION- No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.'. (2) ACT OF MAY 1, 1886- Section 2 of the Act entitled 'An Act to enable national banking associations to increase their capital stock and to change their names and locations.'and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

'(c) COORDINATION WITH REVISED STATUTES- In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 5155(e)(2) of the Revised Statutes.'.

(3) FEDERAL DEPOSIT INSURANCE ACT-

(A) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES OF STATE NONMEMBER BANKS- Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

'(3) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES-

'(A) IN GENERAL- Effective June 1, 1997, a State nonmember bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in section 44(f)(4)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of a branch in such State by a State nonmember bank is authorized under this subsection or section 13(f), 13(k), or 44.

'(B) RETENTION OF BRANCHES- In the case of a State nonmember bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in section 44(f)(4)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in subparagraph (A), to acquire, establish, or commence to operate a branch in such State if--

'(i) the bank had no branches in such State; or

'(ii) the branch resulted from--

'(I) an interstate merger transaction approved pursuant to section 44; or

'(II) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Corporation under section 13(c).'. (B) ACTIVITIES OF BRANCHES OF STATE BANKS RESULTING FROM INTERSTATE

MERGER TRANSACTIONS- Section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) is amended by adding at the end the following new subsection:

'(j) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS-

'(1) IN GENERAL- The laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch of a bank chartered by that State.

'(2) ACTIVITIES OF BRANCHES- An insured State bank that establishes a branch in a host State may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

'(3) DEFINITIONS- The terms 'host State', 'interstate merger transaction', and 'out-of-State bank'have the same meanings as in section 44(f).'.

(4) ACT OF NOVEMBER 7, 1918- The Act entitled 'An Act to provide for the consolidation of the national banking associations.'and approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended--

(A) by redesignating section 2 as section 3; (B) by redesignating section 3 as section 5; (C) in the 1st section, by striking 'That (a) any national banking association'and inserting the following: 'SECTION 1. SHORT TITLE.

'This Act may be cited as the 'National Bank

Consolidation and Merger Act'.

'SEC. 2. CONSOLIDATION OF BANKS WITHIN THE SAME STATE.

'(a) IN GENERAL- Any national bank'; and

(D) by inserting after section 3 (as so redesignated under subparagraph (A) of this paragraph) the following new section:

'SEC. 4. INTERSTATE CONSOLIDATIONS AND MERGERS.

'(a) IN GENERAL- A national bank may engage in a consolidation or merger under this Act with an out-of-State bank if the consolidation or merger is approved pursuant to section 44 of the Federal Deposit Insurance Act.

'(b) SCOPE OF APPLICATION- Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 44(a)(3) of the Federal Deposit Insurance Act.

'(c) DEFINITIONS- The terms 'home State'and 'out-of-State bank'have the same meaning as in section 44(f) of the Federal Deposit Insurance Act.'.

(5) HOME OWNERS'LOAN ACT- Section 3 of the Home Owners'Loan Act (12 U.S.C. 1462a) is amended--

(A) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and (B) by

inserting after subsection (e), the following new subsection:

'(f) STATE HOMESTEAD PROVISIONS- No provision of this Act or any other provision of law administered by the Director shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on such date, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.'. (a) NATIONAL BANKS- Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by inserting after subsection (f) (as added by section 102(b)) the following new subsection:

'(g) STATE 'OPT-IN'ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES-

'(1) IN GENERAL- Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if--

'(A) there is in effect in the host State a law that--

'(i) applies equally to all banks; and

'(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and

'(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

'(2) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH-

'(A) ESTABLISHMENT- An application by a national bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

'(B) OPERATION- Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 44 apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 44.

'(3) DEFINITIONS- The following definitions shall apply for purposes of this section:

'(A) DE NOVO BRANCH- The term 'de novo branch'means a branch of a national bank which--

'(i) is originally established by the national bank as a branch; and

'(ii) does not become a branch of such bank as a result of--

'(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

'(II) the conversion, merger, or consolidation of any such institution or branch.

'(B) HOME STATE- The term 'home State'means the State in which the main office of a national bank is located.

'(C) HOST STATE- The term 'host State'means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.'.

(b) STATE BANKS- Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (3) (as added by section 102(b)(3) of this title) the following new paragraph:

'(4) STATE 'OPT-IN'ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES-

'(A) IN GENERAL- Subject to subparagraph (B), the Corporation may approve an application by an insured State nonmember bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if--

'(i) there is in effect in the host State a law that--

'(I) applies equally to all banks; and

'(II) expressly permits all out-of-State banks to establish de novo branches in such State; and

'(ii) the conditions established in, or made applicable to this paragraph by, subparagraph (B) are met.

'(B) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH-

'(i) ESTABLISHMENT- An application by an insured State nonmember bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for a merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b).

'(ii) OPERATION- Subsections (c) and (d)(2) of section 44 shall apply with respect to each branch of an insured State nonmember bank which is established and operated pursuant to an application approved under this paragraph in the same manner and to the same extent such provisions of such section apply to a branch of a State bank which resulted from a merger transaction under such section 44.

'(C) DE NOVO BRANCH DEFINED- For purposes of this paragraph, the term 'de novo branch'means a branch of a State bank which--

'(i) is originally established by the State bank as a branch; and

'(ii) does not become a branch of such bank as a result of--

'(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

'(II) the conversion, merger, or consolidation of any such institution or branch.

'(D) HOME STATE DEFINED- The term 'home State'means the State by which a State bank is chartered.

'(E) HOST STATE DEFINED- The term 'host State'means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.'.

SEC. 104. BRANCHING BY FOREIGN BANKS.

(a) IN GENERAL- Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

'(a) INTERSTATE BRANCHING AND AGENCY OPERATIONS-

'(1) FEDERAL BRANCH OR AGENCY- Subject to the provisions of this Act and with the prior written approval by the Board and the Comptroller of the Currency of an application, a foreign bank may establish and operate a Federal branch or agency in any State outside the home State of such foreign bank to the extent that the establishment and operation of such branch would be

permitted under section 5155(g) of the Revised Statutes or section 44 of the Federal Deposit Insurance Act if the foreign bank were a national bank whose home State is the same State as the home State of the foreign bank.

'(2) STATE BRANCH OR AGENCY- Subject to the provisions of this Act and with the prior written approval by the Board and the appropriate State bank supervisor of an application, a foreign bank may establish and operate a State branch or agency in any State outside the home State of such foreign bank to the extent that such establishment and operation would be permitted under section 18(d)(4) or 44 of the Federal Deposit Insurance Act if the foreign bank were a State bank whose home State is the same State as the home State of the foreign bank.

'(3) CRITERIA FOR DETERMINATION- In approving an application under paragraph (1) or (2), the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency--

'(A) shall apply the standards applicable to the establishment of a foreign bank office in the United States under section 7(d);

'(B) may not approve an application unless the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency--

'(i) determine that the foreign bank's financial resources, including the capital level of the bank, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act; and

'(ii) consult with the Secretary of the Treasury regarding capital equivalency; and

'(C) shall apply the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

'(4) OPERATION- Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch and agency of a foreign bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section apply to a domestic branch of a national or State bank (as such terms are defined in section 3 of such Act) which resulted from a merger transaction under such section 44.

'(5) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES- Except as provided in this section, a foreign bank may not, directly or indirectly, acquire, establish, or operate a branch or agency in any State other than the home State of such bank.

'(6) REQUIREMENT FOR A SEPARATE SUBSIDIARY- If the Board or the Comptroller of the Currency, taking into account differing regulatory or accounting standards, finds that adherence by a foreign bank to capital requirements equivalent to those imposed under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act could be verified only if the banking activities of such bank in the United States are carried out in a domestic banking subsidiary within the United States, the Board and (in the case of an application under

paragraph (1)) the Comptroller of the Currency may approve an application under paragraph (1) or (2) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.

'(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS- Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if--

'(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

'(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.

'(9) HOME STATE OF DOMESTIC BANK DEFINED- For purposes of this subsection, the term 'home State'means--

'(A) with respect to a national bank, the State in which the main office of the bank is located; and

'(B) with respect to a State bank, the State by which the bank is chartered.'.

(b) CONTINUED AUTHORITY FOR LIMITED BRANCHES, AGENCIES, OR COMMERCIAL LENDING COMPANIES- Section 5(b) of the International Banking Act of 1978 (12 U.S.C. 3103(b)) is amended by adding at the end the following new sentence: 'Notwithstanding subsection (a), a foreign bank may continue to operate, after the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before the date of the enactment of such Act to the extent the branch, agency, or subsidiary continues, after the enactment of such Act, to engage in operations which were lawful under the laws in effect on the day before such date.'. (c) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY- Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

'(d) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY- In the case of a foreign bank that has a domestic bank subsidiary within the United States--

'(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

'(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic

bank to establish branches outside the home State of the domestic bank to the extent permitted under section 5155(g) of the Revised Statutes or section 18(d)(4) or 44 of the Federal Deposit Insurance Act, as the case may be.'.

(d) HOME STATE DETERMINATIONS- Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

'(c) DETERMINATION OF HOME STATE OF FOREIGN BANK- For the purposes of this section--

'(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected to be the home State by the foreign bank or, in default of any such selection, by the Board; and

'(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.'.

SEC. 105. COORDINATION OF EXAMINATION AUTHORITY. Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (g) the following new subsection:

'(h) COORDINATION OF EXAMINATION AUTHORITY-

'(1) IN GENERAL- The appropriate State bank supervisor of a host State may examine a branch operated in such State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or a branch established in such State pursuant to section 5155(g) of the Revised Statutes or section 18(d)(4)--

'(A) for the purpose of determining compliance with host State laws, including those that govern banking, community reinvestment, fair lending, consumer protection, and permissible activities; and

'(B) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

'(2) ENFORCEMENT- If the State bank supervisor of a host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in paragraph (1) or that the branch is being operated in an unsafe and unsound manner, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a State law enforcement officer may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

'(3) COOPERATIVE AGREEMENT- The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

'(4) FEDERAL REGULATORY AUTHORITY- No provision of this subsection shall be construed as limiting in any way the authority of an appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.'.

SEC. 106. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1) is amended by adding at the end the following new subsection:

'(d) BRANCH CLOSURES IN INTERSTATE BANKING OR BRANCHING OPERATIONS-

'(1) NOTICE REQUIREMENTS- In the case of an interstate bank which proposes to close any branch in a low- or moderate-income area, the notice required under subsection (b)(2) shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

'(2) ACTION REQUIRED BY APPROPRIATE FEDERAL BANKING AGENCY- If, in the case of a branch referred to in paragraph (1)--

'(A) a person from the area in which such branch is located--

'(i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and

'(ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of banking services in the area affected by the closing of the branch; and

'(B) the agency concludes that the request is not frivolous,

the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency and other interested depository institution regulatory agencies with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) as the agency may determine, in the discretion of the agency, to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

'(3) NO EFFECT ON CLOSING- No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) have been met by such bank with respect to the branch being closed.

'(4) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:

'(A) INTERSTATE BANK DEFINED- The term 'interstate bank'means a bank which maintains branches in

more than 1 State.

'(B) LOW- OR MODERATE-INCOME AREA- The term 'low- or moderate-income area'means a census tract for which the median family income is--

'(i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or

'(ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.'. SEC. 107. EQUALIZING COMPETITIVE OPPORTUNITIES FOR UNITED STATES AND FOREIGN BANKS.

(a) REGULATORY OBJECTIVES- Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended--

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and (2) by inserting after 'sec. 6'the following new subsection:

'(a) OBJECTIVE- In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive

advantage over United States banking organizations.'. (b) REVIEW OF REGULATIONS-

(1) IN GENERAL- Each Federal banking agency, after consultation with the other Federal banking agencies to assure uniformity, shall revise the regulations adopted by such agency under section 6 of the International Banking Act of 1978 to ensure that the regulations are consistent with the objective set forth in section 6(a) of the International Banking Act of 1978.

(2) SPECIFIC FACTORS- In carrying out paragraph (1), each Federal banking agency shall consider whether to permit an uninsured branch of a foreign bank to accept initial deposits of less than $100,000 only from--

(A) individuals who are not citizens or residents of the United States at the time of the initial deposit; (B) individuals who--

(i) are not citizens of the United States; (ii) are residents of the United States; and (iii) are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(C) persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(D) foreign businesses and large United States businesses; (E) foreign governmental units and recognized international organizations; and

(F) persons who are depositing funds in connection with

the issuance of a financial instrument by the branch for the transmission of funds.

(3) REDUCTION IN REGULATORY DE MINIMIS EXEMPTION- In carrying out paragraph (1), each Federal banking agency shall limit any exemption which is--

(A) available under any regulation prescribed pursuant to section 6(d) of the International Banking Act of 1978 providing for the acceptance of initial deposits of less than $100,000 by an uninsured branch of a foreign bank; and
(B) based on a percentage of the average deposits at such branch;

to not more than 1 percent of the average deposits at such branch.

(4) ADDITIONAL RELEVANT CONSIDERATIONS- In carrying out paragraph (1), each Federal banking agency shall also consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy.

(5) DEADLINE FOR PRESCRIBING REVISED REGULATIONS- Each Federal banking agency--

(A) shall publish final regulations under paragraph (1) in the Federal Register not later than 12 months after the date of enactment of this Act; and

(B) may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the

date of enactment of this Act. (6) DEFINITIONS- For purposes of this subsection-- (A) the term 'Federal banking agency'means-- (i) the Comptroller of the Currency with respect to Federal branches of foreign banks; and (ii) the Federal Deposit Insurance Corporation with respect to State branches of foreign banks; and (B) the term 'uninsured branch'means a branch of a foreign bank that is not an insured branch, as defined in section 3(s)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)(3)).

(c) AMENDMENT AFFIRMING THAT CONSUMER PROTECTION LAWS APPLY TO FOREIGN BANKS- Section 9(b) of the International Banking Act of 1978 (12 U.S.C. 3106a) is amended--

(1) in paragraph (1)--

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and (B) by inserting after 'which--'the following new subparagraph:

'(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;'; and (2) in paragraph (2)--

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and (B) by inserting after 'which--'the following new subparagraph:

'(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in

activities that are subject to such laws;'.

(d) INSURED BANKS IN TERRITORIES NOT TREATED AS FOREIGN BANKS FOR PURPOSES OF RETAIL DEPOSIT-TAKING RULE- Section 6(d) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) (as so redesignated by subsection (a)(1) of this section) is amended by adding at the end the following new paragraph:

'(3) INSURED BANKS IN U.S. TERRITORIES- For purposes of this subsection, the term 'foreign bank'does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.'. (e) AMENDMENT RELATING TO SHELL BRANCHES-

(1) IN GENERAL- Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

'(k) MANAGEMENT OF SHELL BRANCHES-

'(1) TRANSACTIONS PROHIBITED- A branch or agency of a foreign bank shall not manage, through an office of the foreign bank which is located outside the United States and is managed or controlled by such branch or agency, any type of activity that a bank organized under the laws of the United States, any State, or the District of Columbia is not permitted to manage at any branch or subsidiary of such bank which is located outside the United States.

'(2) REGULATIONS- Any regulations promulgated to carry out this section--

'(A) shall be promulgated in accordance with section 13; and

'(B) shall be uniform, to the extent practicable.'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall become effective at the end of the 180-day period beginning on the date of enactment of this Act.

(f) MEETING COMMUNITY CREDIT NEEDS- Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) (as amended by section 104 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

'(8) CONTINUING REQUIREMENT FOR MEETING COMMUNITY CREDIT NEEDS AFTER INITIAL INTERSTATE ENTRY BY ACQUISITION-

'(A) IN GENERAL- If a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank is, or is part of, a regulated financial institution (as defined in section 803 of the Community Reinvestment Act of 1977), the Community Reinvestment Act of 1977 shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a regulated financial institution.

'(B) EXCEPTION FOR BRANCH THAT RECEIVES

ONLY DEPOSITS PERMISSIBLE FOR AN EDGE ACT CORPORATION- Paragraph (1) shall not apply to any branch that receives only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to receive.'. SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES. (a) IN GENERAL- Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

'SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

'(a) ANNUAL SURVEY REQUIRED- The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of the institution, of--

'(1) certain retail banking services provided by insured depository institutions; and

'(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machine transactions.

'(b) ANNUAL REPORT TO CONGRESS REQUIRED-

'(1) PREPARATION- The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

'(2) CONTENTS OF THE REPORT- Each report prepared pursuant to paragraph (1) shall include--

'(A) a description of any discernible trend, in the Nation as a whole and in each region, in the cost and availability of retail banking services which delineates differences on the basis of size of the institution and engagement in multistate activity; and

'(B) a description of the correlation, if any, among the following factors:

'(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

'(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

'(iii) A decrease in the availability of such services.

'(3) SUBMISSION TO CONGRESS- The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.'.

(b) SUNSET- The requirements of subsection (a) shall not apply after the end of the 7-year period beginning on the date of enactment of this Act.

SEC. 109. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES. (a) REGULATIONS- The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in

interstate branching pursuant to this title, or any amendment made by this title to any other provision of law, primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS- Regulations issued under subsection (a) shall include guidelines to ensure that interstate branches operated by an out-of-State bank in a host State are reasonably helping to meet the credit needs of the communities which the branches serve.

(c) LIMITATION ON OUT-OF-STATE LOANS-

(1) LIMITATION- Regulations issued under subsection (a) shall require that, beginning no earlier than 1 year after establishment or acquisition of an interstate branch or branches in a host State by an out-of-State bank, if the appropriate Federal banking agency for the out-of-State bank determines that the bank's level of lending in the host State relative to the deposits from the host State (as reasonably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant sources) for all banks the home State of which is such State-- (A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs-- (i) the agency

may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and (ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve. (2) CONSIDERATIONS- In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider-- (A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977;

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and (F) the safe and sound operation and condition of the out-of-State

bank.

(3) Branch closing procedure-

(A) NOTICE REQUIRED- Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) HEARING- Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding brought under this paragraph.

(d) APPLICATION- This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title or any amendment made by this title to any other provision of law.

(e) DEFINITIONS- For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY, BANK, STATE, AND STATE BANK- The terms 'appropriate Federal banking agency', 'bank', 'State', and 'State bank'have the same meanings as in section 3 of the Federal Deposit Insurance Act. (2) HOME STATE- The term 'home State'means-- (A) in the case of a national bank, the State in which the main office of the bank is located; and (B) in the case of a State bank, the State by which the bank is chartered.

(3) HOST STATE- The term 'host State'means a State in which a bank establishes a branch other than the home

State of the bank.

(4) INTERSTATE BRANCH- The term 'interstate branch'means a branch established pursuant to this title or any amendment made by this title to any other provision of law. (5) OUT-OF-STATE BANK- The term 'out-of-State bank'means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State. (a) IN GENERAL- Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

'(d) INSTITUTIONS WITH INTERSTATE BRANCHES-

'(1) STATE-BY-STATE EVALUATION- In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare--

'(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

'(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

'(2) MULTISTATE METROPOLITAN AREAS- In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial

supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

'(3) CONTENT OF STATE LEVEL EVALUATION- A written evaluation prepared pursuant to paragraph (1)(B) shall--

'(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

'(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

'(e) DEFINITIONS- For purposes of this section the following definitions shall apply:

'(1) DOMESTIC BRANCH- The term 'domestic branch'means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

'(2) METROPOLITAN AREA- The term 'metropolitan area'means any primary metropolitan statistical area,

metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.

'(3) STATE- The term 'State'has the same meaning as in section 3 of the Federal Deposit Insurance Act.'. (b) SEPARATE PRESENTATION- Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended-- (1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking 'The public'and inserting the following:

'(A) CONTENTS OF WRITTEN EVALUATION- The public'; and (3) by adding at the end the following new subparagraph:

'(B) METROPOLITAN AREA DISTINCTIONS- The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.'.

SEC. 111. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way--

(1) the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method

of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any such bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law;

(2) the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code; or (3) the applicability of section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act. (a) IN GENERAL- The Comptroller General of the United States shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that--

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that the implementation of the interstate branching provisions contained in this title will result in no material loss of information important to regulatory or congressional oversight of insured depository institutions. (b) CONSULTATION- The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS- For purposes of this section, the terms 'appropriate Federal banking agency'and 'insured

depository institution'have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 113. MAXIMUM INTEREST RATE ON CERTAIN FMHA LOANS. (a) IN GENERAL- Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended--

(1) in paragraph (3)(A), by striking 'Except'and inserting 'Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except'; and (2) in paragraph (5)--

(A) by striking

'(5) The'and inserting

'(5)(A) Except as provided in subparagraph (B), the'; and

(B) by adding at the end the following new subparagraph:

'(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.'.

(b) EFFECTIVE DATES-

(1) IN GENERAL- Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C.

1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION- Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD- In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action. Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by adding at the end the following new section: 'SEC. 5244. INTERPRETATIONS CONCERNING PREEMPTION OF CERTAIN STATE LAWS.

'(a) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED- Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law

preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall--

'(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue);

'(2) give interested parties not less than 30 days in which to submit written comments; and

'(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, consider any comments received.

'(b) PUBLICATION REQUIRED- The appropriate Federal banking agency shall publish in the Federal Register--

'(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

'(2) any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes.

'(c) EXCEPTIONS-

'(1) NO NEW ISSUE OR SIGNIFICANT BASIS- This section shall not apply with respect to any opinion letter or interpretive rule that--

'(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

'(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

'(2) JUDICIAL, LEGISLATIVE, OR INTRAGOVERNMENTAL MATERIALS- This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

'(3) EMERGENCY- The appropriate Federal banking agency may make exceptions to subsection (a) if--

'(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

'(B) the opinion letter or interpretive rule is issued in connection with--

'(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 3 of the Federal Deposit Insurance Act); or

'(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance under

section 13(c) of the Federal Deposit Insurance Act.'.

(a) BRANCHES, AGENCIES, AND AFFILIATES- Section 7(c)(1)(D) of the International Banking Act of 1978 shall not apply with respect to any examination under section 7(c)(1)(A) of such Act which begins before or during the 3-year period beginning on July 25, 1994. (b) REPRESENTATIVE OFFICES- The provision of section 10(c) of the International Banking Act of 1978 relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.

TITLE II--GENERAL PROVISIONS (a) FEDERAL DEPOSIT INSURANCE ACT- Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended by adding at the end the following new subparagraph:

'(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION-

'(i) IN GENERAL- In the case of any tort claim described in clause (ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

'(ii) CLAIMS DESCRIBED- A tort claim referred to in clause (i) is a claim arising from fraud, intentional

misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.'.

(b) FEDERAL HOME LOAN BANK ACT- Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended by adding at the end the following new subparagraph:

'(E) REVIVAL OF EXPIRED STATE CAUSES OF ACTION- In the case of any tort claim described in subparagraph (A)(ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.'.

(a) FINDINGS- The Senate finds that--

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as 'COCOM'), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM; (3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy; (4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to 'national discretion', effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE- It is the sense of the Senate that-- (1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

Title III of Public law 102-281 (31 U.S.C. 5111 note) is

amended-- (1) in section 303(b), by striking 'entitlement'and inserting 'enactment'; and

(2) in section 307 by striking subsection (b) and inserting the following:

'(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS- The Secretary of the Treasury shall begin minting and issuing the medals described in section 302 whenever there are any funds available to cover the cost of minting and issuing any such medals from amounts received by the Secretary under section 305 and donations by private persons, and shall continue minting and issuing such medals, subject to the availability of funds to cover the costs, until all of the medals authorized have been issued.'. SEC. 204. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES. (a) COIN SPECIFICATIONS-

(1) ONE DOLLAR SILVER COINS-

(A) ISSUANCE- The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper. (B) DESIGN- The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year '1995', and inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'. (2) LEGAL TENDER- The coins issued under this section shall be legal tender as provided in section 5103 of title 31,

United States Code.

(3) NUMISMATIC ITEMS- For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items. (b) SOURCES OF BULLION- The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act. (c) SELECTION OF DESIGN- The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee. (d) ISSUANCE OF THE COINS-

(1) QUALITY OF COINS- The coins authorized under this section may be issued in uncirculated and proof qualities. (2) MINT FACILITY- Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE- The Secretary shall issue coins minted under this section during the period beginning on January 15, 1995, and ending on December 31, 1995. (e) SALE OF THE COINS-

(1) SALE PRICE- The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use

of machinery, overhead expenses, marketing, and shipping).
(2) BULK SALES- The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS- The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED- All sales shall include a surcharge of $10 per coin.

(5) INTERNATIONAL SALES- The Secretary, in cooperation with the 1995 Special Olympics World Games Organizing Committee, shall develop an international marketing program to promote and sell coins outside of the United States.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS- No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES- The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to--

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS- The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES-

(1) NO NET COST TO THE GOVERNMENT- The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED- No coin shall be issued under this section unless the Secretary has received-- (A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are

insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board. SEC. 205. NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS. (a) COIN SPECIFICATIONS-

(1) $1 SILVER COINS- The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') shall mint and issue not more than 500,000 $1 coins to commemorate students who volunteer to perform community service, which shall--

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and (C) contain 90 percent silver and 10 percent copper. (2) LEGAL TENDER- The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS- For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION- The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act. (c) DESIGN OF COINS-

(1) DESIGN REQUIREMENTS-

(A) IN GENERAL- The design of the coins minted under this section shall be emblematic of community services provided by student volunteers.

(B) DESIGNATION AND INSCRIPTIONS- On each coin minted under this section there shall be--

(i) a designation of the value of the coin; (ii) an inscription of the year '1996'; and (iii) inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'.

(2) SELECTION- The design for the coins authorized by this section shall be--

(A) selected by the Secretary after consultation with the National Community Service Trust and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS-

(1) QUALITY OF COINS- Coins minted under this section shall be issued in uncirculated and proof qualities.
(2) MINT FACILITY- Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE- The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than September 1, 1996.

(e) SALE OF COINS-

(1) SALE PRICE- The coins issued under this section shall

be sold by the Secretary at a price equal to the sum of--
(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping). (2) BULK SALES- The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS-

(A) IN GENERAL- The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT- Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.
(4) SURCHARGES- All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS- (1) IN GENERAL- Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section. (2) EQUAL EMPLOYMENT OPPORTUNITY- Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES-

(1) IN GENERAL- All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

(2) AUDITS- The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Community Service Trust as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES-

(1) NO NET COST TO THE GOVERNMENT- The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS- A coin shall not be issued under this section unless the Secretary has received--

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the

National Credit Union Administration Board. SEC. 206. ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS. (a) COIN SPECIFICATIONS-

(1) $1 SILVER COINS- The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') shall mint and issue not more than 500,000 $1 coins to commemorate the life and work of Robert F. Kennedy, which shall-- (A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and (C) contain 90 percent silver and 10 percent copper. (2) LEGAL TENDER- The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS- For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION- The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act. (c) DESIGN OF COINS-

(1) DESIGN REQUIREMENTS-

(A) IN GENERAL- The design of the coins minted under this section shall be emblematic of the life and work of Robert F. Kennedy.

(B) DESIGNATION AND INSCRIPTIONS- On each coin minted under this section there shall be--

(i) a designation of the value of the coin; (ii) an inscription of the year '1998'; and (iii) inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'.

(2) SELECTION- The design for the coins authorized by this section shall be--

(A) selected by the Secretary after consultation with the Robert F. Kennedy Memorial and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS-

(1) QUALITY OF COINS- Coins minted under this section shall be issued in uncirculated and proof qualities.
(2) MINT FACILITY- Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE- The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than January 1, 1998.

(e) SALE OF COINS-

(1) SALE PRICE- The coins issued under this section shall be sold by the Secretary at a price equal to the sum of--
(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping). (2) BULK SALES- The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS-

(A) IN GENERAL- The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT- Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount. (4) SURCHARGES- All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS- (1) IN GENERAL- Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section. (2) EQUAL EMPLOYMENT OPPORTUNITY- Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES-

(1) IN GENERAL- All surcharges received by the

Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the Robert F. Kennedy Memorial for the purpose of improving the endowment of the Robert F. Kennedy Memorial.

(2) AUDITS- The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Robert F. Kennedy Memorial as may be related to the expenditures of amounts paid under paragraph (1). (h) FINANCIAL ASSURANCES-

(1) NO NET COST TO THE GOVERNMENT- The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS- A coin shall not be issued under this section unless the Secretary has received--

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board. (a) COIN SPECIFICATIONS-

(1) ONE DOLLAR SILVER COINS-

(A) ISSUANCE- The Secretary shall issue not more than

500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN- The design of the $1 coins shall be emblematic of the United States Military Academy and its motto 'Duty, Honor, Country'. On each such coin there shall be a designation of the value of the coin, an inscription of the year '2002', and inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'.

(2) LEGAL TENDER- The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(b) SOURCES OF BULLION- The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act. (c) SELECTION OF DESIGN- The design of the coins minted under this section shall be selected by the Secretary after consultation with the Commission of Fine Arts and the Bicentennial Steering Group, Association of Graduates, United States Military Academy. As required by section 5135 of title 31, United States Code, the designs shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS-

(1) QUALITY AND MINT FACILITY- The coins authorized under this section may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(2) PERIOD FOR ISSUANCE- The Secretary shall issue coins minted under this section during the period beginning on March 16, 2002, and ending on March 16, 2003.

(3) SUNSET PROVISION- No coins shall be minted under this section after December 31, 2002.

(e) SALE OF THE COINS-

(1) SALE PRICE- The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping). (2) BULK SALES- The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS- The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount. (4) SURCHARGE REQUIRED- All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS- No provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES- The total

surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the Association of Graduates, United States Military Academy to assist the Association of Graduates'efforts to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets, United States Military Academy.
(h) AUDITS- The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Association of Graduates, United States Military Academy as may be related to the expenditure of amounts paid under subsection (g).

(i) NUMISMATIC PUBLIC ENTERPRISE FUND- The coins issued under this section are subject to the provisions of section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

(j) FINANCIAL ASSURANCES-

(1) NO NET COST TO THE GOVERNMENT- The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED- No coin shall be issued under this section unless the Secretary has received-- (A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are

insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board. SEC. 208. UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS. (a) COIN SPECIFICATIONS-

(1) ONE-DOLLAR SILVER COINS-

(A) ISSUANCE- The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') shall mint and issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper. (B) DESIGN- The design of the coins issued under this section shall be a rose, the national floral emblem, and a frontal view of the French facade of the United States Botanic Garden. On each coin there shall be a designation of the value of the coin, an inscription of the years '1820-1995', and inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'.

(2) LEGAL TENDER- The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS- For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCE OF BULLION- The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act. (c) SELECTION OF DESIGN- The design for the coins minted under this section shall be--

(1) selected by the Secretary after consultation with the National Fund for the United States Botanic Garden and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS-

(1) QUALITY OF COINS- Coins minted under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY- Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD OF ISSUANCE- The Secretary may issue coins minted under this section during the period beginning on January 1, 1997, and ending on December 31, 1997.

(e) SALE OF COINS-

(1) SALE PRICE- The coins authorized under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping). (2) BULK SALES- The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS- The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this

paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED- All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS- (1) IN GENERAL- Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section. (2) EQUAL EMPLOYMENT OPPORTUNITY- Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES- All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Fund for the United States Botanic Garden.

(h) AUDITS- The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Fund for the United States Botanic Garden as may be related to the expenditures of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES-

(1) NO NET COST TO THE GOVERNMENT- The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED- No coin shall be issued under this section unless the Secretary has received-- (A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 209. MOUNT RUSHMORE COMMEMORATIVE COINS.

(a) DISTRIBUTION OF SURCHARGES- Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

'(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

'(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.'.

(b) RETROACTIVE EFFECT- If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to

the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS- Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs, or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

(a) STUDY-

(1) IN GENERAL- The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') shall, after consultation with the Advisory Commission on Financial Services established under subsection (b), and consultation in accordance with paragraph (3), conduct a study of matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of the system's users, including the needs of--

(A) individual consumers and households; (B) communities;

(C) agriculture;

(D) small-, medium-, and large-sized businesses; (E) governmental and nonprofit entities; and (F) exporters and

other users of international financial services.

(2) MATTERS STUDIED- The study required under paragraph (1) shall include consideration of--

(A) the changes underway in the national and international economies and the financial services industry, and how those changes affect the financial services system's ability to efficiently meet the needs of the national economy and the system's users during the next 10 years and beyond; and

(B) the adequacy of existing statutes and regulations, and the existing regulatory structure, to meet the needs of the financial services system's users effectively, efficiently, and without unfair, anticompetitive, or discriminatory practices.

(3) CONSULTATION- Consultation in accordance with this paragraph means consultation with--

(A) the Board of Governors of the Federal Reserve System;

(B) the Commodity Futures Trading Commission;

(C) the Comptroller of the Currency;

(D) the Director of the Office of Thrift Supervision;

(E) the Federal Deposit Insurance Corporation; (F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities and Exchange Commission;

(H) the Director of the Congressional Budget Office; and

(I) the Comptroller General of the United States.

(b) ADVISORY COMMISSION ON FINANCIAL SERVICES-

(1) ESTABLISHMENT- There is established the Advisory Commission on Financial Services (hereafter in this section referred to as the 'Advisory Commission').

(2) MEMBERSHIP OF COMMISSION- The Advisory Commission-- (A) shall consist of not less than 9 nor more than 14 members appointed by the Secretary from among individuals-- (i) who are--

(I) users of the financial services system; or (II) experts in finance or on the financial services system; and (ii) who are not employees of the Federal Government; and

(B) shall include representatives of business, agriculture, and consumers.

(3) CHAIRPERSON- The Secretary or the Secretary's designee shall serve as Chairperson of the Advisory Commission. (4) TRAVEL EXPENSES- Members of the Advisory Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performing services for the Advisory Commission. (5) TERMINATION- The Advisory Commission shall terminate 30 days after the date of submission of the report required under subsection (d).

(c) RECOMMENDATIONS- Based on the results of the study conducted under subsection (a), the Secretary shall develop such recommendations as may be appropriate for changes in statutes, regulations, and policies to improve the operation of the financial services system, including changes to better--

(1) meet the needs of, and assure access to the system for, current and potential users;

(2) promote economic growth;

(3) protect consumers;

(4) promote competition and efficiency;

(5) avoid risk to the taxpayers;

(6) control systemic risk; and

(7) eliminate discrimination.

(d) REPORT- Not later than '5 months after the date of enactment of this Act, the Secretary shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report describing the study conducted under subsection (a) and any recommendations developed under subsection (c).

SEC. 211. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS. (a) IN GENERAL- Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking 'two thirds' and inserting 'a majority'.

(b) PROVISION REPEAL- Effective on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, this section and the amendment made by this section are repealed.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.